

# Terms of business for intermediaries

Other than where agreed with you, these terms of business (referred to throughout as the “Terms”) govern the basis on which *Octopus Investments Limited* and *Octopus Co-Lend Limited* (hereinafter “Octopus”; “we”; “us”; or “our”) will accept *Business* from “you”, the *Intermediary* (as defined in clause 18 below; hereinafter “you”; “yourself” or “your”) in relation to certain *Octopus Products* and *Octopus Services* (as further detailed in Schedule 2 to these *Terms*). By introducing a *Client* to us you accept and consent to these *Terms*. You will be deemed to continue to accept these *Terms* each time you deal with Octopus.

Please ensure that you read these *Terms* carefully before making any introductions to us. Words which are defined in these *Terms* (including those set out above) have the meaning specified in clause 18 and are identified by italicised text.

## 1. Application and scope

- 1.1 You are authorised or exempt under the *Applicable Rules* to promote, distribute, market, provide advice (and related services), execution-only and non-advised services to your *Clients* in relation to various investments and services, including without limitation those set out in Schedule 2.
- 1.2 You understand the requirements of relevant *Applicable Rules* that apply in relation to all activities under or in any way connected with or offered as set out in these *Terms*.
- 1.3 *Octopus Investments Limited* is authorised under the *Applicable Rules* to provide the service of managing investments. *Octopus Co-Lend Limited* is authorised to operate an electronic system in relation to lending. We also provide the associated services of arranging and executing transactions and custody services, but only in respect of the investments that we manage.
- 1.4 At all times you, your employees and *Appointed Representatives* have all relevant *Permissions* from the FCA. You warrant that you will notify us if you or your *Appointed Representatives* cease to be regulated by the FCA or fail to have the relevant *Permissions*.
- 1.5 You wish to add to the range of services provided to your *Clients* by promoting, distributing, marketing, providing advice (and related services) execution-only and non-advised services to them in respect of *Octopus Products* and *Octopus Services*.
- 1.6 *Clients* introduced to us by you may become *Clients* of Octopus and enter into a *Client* agreement with us. You will continue to provide advice and other services to those *Clients*. You will remain the agent of your *Clients* in relation to all aspects of the *Octopus Products* and *Octopus Services* until these *Terms* are terminated in accordance with section 15 or until Octopus is notified by the *Client* that you are no longer acting on the *Client’s* behalf.
- 1.7 Octopus agrees that at all times whilst your *Client* continues to be invested in an *Octopus Product* or is using an *Octopus Service* in accordance with these *Terms* between you and us, Octopus will not share *Client* data with other parts of the Octopus Group (including but not limited to Octopus Wealth) for the purposes of promoting products and services that would be in direct competition to you.
- 1.8 These *Terms* constitute the terms and conditions in respect of which we will accept *business* from you as the *Intermediary*.
- 1.9 You warrant that you have obtained all necessary authorities and consents from the *Client* to act on the *Client’s* behalf and to process, disclose and receive the *Client’s* information and that those authorities and consents are valid each time we undertake any *Business* with you in relation to that *Client*. You warrant to tell us when any relevant authorities and consents from any *Clients* cease to be valid.

1.10 For the avoidance of doubt, these *Terms* do not apply to the provision from time to time of our tools, methodologies or technology (such as risk profiling tools) which you may decide to use in the course of your business. The provision of such tools, methodologies or technology shall be governed by separate terms agreed with you.

1.11 Octopus will not accept *Business* from an *Intermediary* who is not or ceases to be authorised (or exempt from registration) in the UK under the Act. Octopus shall not be obliged to perform any of its obligations under these *Terms* if such performance would cause Octopus to be in breach of the *Applicable Rules*.

## **2. Commencement and termination of previous agreement**

2.1 These *Terms* shall commence on the date we first accept an application which has been placed with us by you (the "*Effective Date*").

2.2 These *Terms* supersede any *Terms* previously provided to you and any amendments to such *Terms* that may have been agreed from time to time.

2.3 By introducing *Clients* to us you acknowledge that you have read, understood and agreed to these *Terms*.

## **3. Obligations of each party in respect of suitability**

3.1 We will provide *Octopus Products* and/or *Octopus Services* directly to your *Clients*, so that any such *Clients* will also become our *Clients*, even if you are the person who normally deals with us on their behalf.

3.2 Because we are providing the services of managing investments or providing services directly to your *Clients*, you are arranging for the *Client* to have a direct contractual relationship with us, and, therefore, you agree and acknowledge that you are not delegating the management of investments to us.

3.3 You agree that Octopus will not provide investment or tax advice to you or to any *Client* or advise on the suitability of investing in any *Octopus Product* or using an *Octopus Service*.

3.4 Except where otherwise provided by the *Applicable Rules*, you agree that our obligations in respect of assessing suitability will be limited to determining whether any decision to trade is suitable for the

investment mandate for the relevant *Octopus Product* that you have recommended to your *Client* in accordance with the investment mandate of any *Octopus Product*.

3.5 You agree that you are solely responsible for ensuring that any investments, trades, transactions made or undertaken by a *Client* in an *Octopus Product* or the use of the *Octopus Service* by a *Client* are and shall continue to remain suitable and appropriate for the *Client* for the purposes of the *Applicable Rules* including, without limitation, the *Applicable Rules* of the FCA set out in Chapter 9 and 9A of Conduct of Business Sourcebook (*COBS*).

3.6 We will be entitled to rely on the suitability assessments you perform for the purposes of Chapters 9, 9A and 2 of *COBS* in respect of *Clients* proposing to invest in *Octopus Products* or *Octopus Services*. We will rely on the fact that you will only make a *personal recommendation* to a *Client* to invest in an *Octopus Product* or *Octopus Service* that is within the designated target market, as defined by Octopus. You will notify us if you do make a *personal recommendation* to a *Client* to invest in an *Octopus Product* or *Octopus Service* that is outside of the designated target market.

We may ask for more detail on the supporting evidence you collect for these assessments in selected cases and you agree to provide such evidence in accordance with our reasonable requests. You accept that failure to provide any additional information may mean that we are unable to provide any *Octopus Products* or *Octopus Services* to *Clients*.

3.7 You acknowledge and agree that you are responsible for performing any ongoing suitability assessments in respect of the *Client* in relation to *Octopus Products* and *Octopus Services*.

## **4. Basis of service and relationship of the parties**

4.1 A *Client* which is introduced by you to us that trades, transacts or invests in an *Octopus Product* or uses an *Octopus Service* shall become a *Client* of Octopus in relation to the relevant *Octopus Product* and/or *Octopus Service*. However, in relation to your business and the advice you provide to your *Client* and/or any suitability assessments you provide, that *Client* shall remain as your *Clients* in accordance with your terms with that *Client*.

- 4.2 You acknowledge that Octopus does not provide investment services to you and accordingly you are not a Client of Octopus. Accordingly, we will not assign a Client categorisation (as defined in the *Applicable Rules*) to you.
- 4.3 Without prejudice to your obligations under these *Terms*, you acknowledge that, whilst respecting the nature of your relationship with *Clients* and without prejudice to your obligations under these *Terms*, we may communicate directly with *Clients*.
- 4.4 Your introduction of a *Client* does not place us under any obligation to accept such a *Client* and we may decline any *Client* (including terminating an on-going relationship with a *Client*), in our sole and absolute discretion and without prior reference to you or agreement or approval with you.
- 4.5 Nothing in these *Terms* shall create or be construed as creating any partnership, agency relationship, or joint venture between you and us (including between us and any of your respective employees, agents or *Appointed Representatives* (where applicable)).
- 4.6 You acknowledge and agree that you are not authorised to act on behalf of or to bind Octopus and in particular under no circumstances will you act or hold yourself out to any *Client* as our agent.
- 4.7 When we communicate with you in your own capacity, we will treat you as an "investment professional", as defined under the *Financial Promotions Rules*.
- 4.8 In respect of any communication sent by us to you that is intended for "investment professionals" or "professional advisers" you undertake that you shall not, without our prior written consent, forward, copy, reproduce or duplicate in any way or in any media that communication to any retail investor unless you:
- (a) identify yourself (and not us) as the issuer of that communication;
  - (b) have ensured and are satisfied that you are able to rely on and have complied with one or more (as the case may be) of the exemptions set out in the *Financial Promotions Rules*, where applicable; and
  - (c) where requested to do so by us, are able to provide a certificate in a form acceptable to us, which confirms the matters set out in 4.8(b) above.

## 5. Documentation

- 5.1 You agree that it is your responsibility to ensure you have the latest versions of the documentation produced by us relating to *Octopus Products* and *Octopus Services* and that you will provide all applicable documentation to the *Client* in accordance with the *Applicable Rules* and that you will make the *Client* aware of all relevant risk warnings applicable to the relevant *Octopus Products* and/or *Octopus Services*. Octopus shall provide you as soon as possible with up-to-date documentation in connection with the *Octopus Products* and/or *Octopus Services*. However, you agree that you are responsible for ensuring that you are providing the *Clients* with the most up-to-date versions of the documentation in relation to *Octopus Products* and/or *Octopus Services* issued by Octopus. You warrant that you will not make any written or oral representations to *Clients* which materially differ from the information set out in the most recent documentation *Octopus Products* and/or *Octopus Services*.
- 5.2 Subject at all times to your obligations in clause 4.8 above, you shall promptly pass to the *Client* without amendment, any document supplied by us for the *Client's* information, benefit or completion, and promptly return to us all completed documents.
- 5.3 Under MiFID II, you are required to provide us, at least annually, such data and information as Octopus may reasonably request, for us to review the distribution of the *Octopus Products* and/or *Octopus Services* as relevant.

## 6. Information

- 6.1 You agree that we may rely upon any information you provide to us and you warrant that such information is accurate and complete unless you notify us otherwise.
- 6.2 You agree that you will supply us with information in relation to *Clients* that we may request for the purposes of complying with our obligations under relevant domestic or international *Applicable Rules* including in respect of FATCA (Foreign Account Tax Compliance Act), CRS (Common Reporting Standard) and any future intergovernmental agreements. You warrant that you will let us know as soon as practicable when you become aware that such information is incomplete or inaccurate or if the *Client* moves to any country outside of the United Kingdom.

## 7. Anti-money laundering, anti-bribery and corruption, and preventing the facilitation of tax evasion

- 7.1 You agree that you are responsible for ensuring compliance with all relevant requirements of the *Applicable Rules* as regards financial crime and the prevention of money laundering, in relation to those activities concerned with the distribution of *Octopus Products* and *Octopus Services* to *Clients*.
- 7.2 We shall be responsible for ensuring compliance with the *Applicable Rules* referred to in clause 7.1 in relation to those activities concerned with the provision of *Octopus Products* and *Octopus Services* to *Clients*.
- 7.3 By entering into this agreement, you:
- (a) acknowledge that we place reliance on you to undertake Client due diligence, including verification of Client identity, and in accordance with Regulation 39 of the Money Laundering Regulations 2017 consent to us placing such reliance on you;
  - (b) confirm that the policies and procedures you have in place to verify Client identity meet the standard level of customer verification required of regulated firms;
  - (c) agree to provide confirmation of verification of identity via certificate, for any Client for whom we are placing reliance on you;
  - (d) agree that we may, at our discretion, carry out checks on the information and evidence held by you for the purpose of verifying Client identity. You agree to provide, immediately on request, copies of relevant identification and verification data and documentation held for a Client in respect of whom we have placed reliance;
  - (e) acknowledge that we may ask you for further information, or undertake our own checks, to meet our own Client due diligence standards;
  - (f) confirm that you have adequate policies and procedures in place as necessary to comply with the Bribery Act 2010 (in respect of prevention of bribery and corruption) and the Criminal Finances Act 2017 (in respect of the prevention of facilitation of tax evasion), and to guard against fraud;
  - (g) undertake to inform us of any material breach of the obligations covered in this section;
  - (h) acknowledge that we may undertake our own remediation or investigation should we perceive a breach of the obligations covered in this section.

## 8. Indemnity

- 8.1 You agree to indemnify us and keep us indemnified against any *Losses* which we may suffer or incur arising from:
- (a) any failure by you to comply with the *Applicable Rules*;
  - (b) failure by you to perform and maintain suitability assessments in respect of each *Client* in accordance with the requirements of *COBS*;
  - (c) any breach of these *Terms*, negligence, fraud or wilful default by you;
  - (d) any breach by you of these *Terms*;
  - (e) the provision of inaccurate or incomplete information by you or failure to update information previously supplied to Octopus;
  - (f) any inaccurate or misleading statement made to a *Client* concerning Octopus, an *Octopus Product* or *Octopus Service*;
  - (g) failure to make, or late payment of any amounts owing to Octopus by you or a *Client*, except to the extent such *Losses* are directly caused by the negligence, fraud or wilful default of Octopus.

## 9. The basis on which remuneration may be paid to you

- 9.1 The payment of fees or any other form of remuneration or payment shall at all times be governed by these *Terms* and the *Applicable Rules*. For *Business* conducted on or after 31 December 2012 which relates to *Octopus RDR Products*, we will only facilitate the payment of *Adviser Charges* to you, which at all times have been prior agreed between you and the *Client*. We therefore, reserve the right to refuse to pay any remuneration in respect of introductions relating to *Octopus RDR Products*, where to do so would put us and/or you in breach of any *Applicable Rules*.
- 9.2 Without prejudice to clause 9.1, clauses 10 and 11 set out the basis on which we will pay remuneration or facilitate the payment of *Adviser Charges* to you.
- 9.3 Octopus may, at its discretion cease to pay you fees or any other form of remuneration including *Adviser Charges* or payment if:
- (a) your *Permissions* are either suspended, cancelled, revoked or amended in such a way that you are not able to fulfil your obligations under these *Terms*;

- (b) you are subject to an investigation or enforcement action by the *FCA* (or any other relevant regulatory body) in relation to a matter concerning these *Terms*;
- (c) (you are an individual) you die;
- (d) you commit a breach of these *Terms* or an alleged breach or actual breach of the *Applicable Rules*;
- (e) you go into liquidation or receivership or are subject to an administration order, enter into any arrangement with creditors, are unable to pay your debts, have your goods seized in execution, or (if you are an individual) are bankrupt;
- (f) these *Terms* are terminated; or
- (g) the receipt of such payments by you would breach any *Applicable Rules*; or
- (h) Client withdraws their consent to any relevant payments.

## 10. Commission payments

- 10.1 We will not pay you any commission in respect of *Clients* introduced to us by you, except we may agree to pay you commission in the following circumstances:
- (a) where you have not made any *Personal Recommendations* in relation to the relevant *Octopus Product* or *Octopus Service*;
  - (b) the relevant *Octopus Product* is not an *Octopus RDR Product*;
  - (c) where the *Client* is not a *Retail Client*;
  - (d) where the *Client* is not a resident of the United Kingdom;
  - (e) where the commission relates to advice services that were provided by you to the *Client* before 31 December 2012; and
  - (i) the payment of commission would be permitted by the *Applicable Rules* in force at that time;
  - (ii) the effective date of the relevant terms in force at the time that a *Client* was introduced to an *Octopus Product* or *Octopus Service* is prior to 31 December 2012; and
  - (iii) the *Client* invested, traded or transacted in an *Octopus Product* or utilised an *Octopus Service* within a reasonable time of *your Personal Recommendation* having been given; and
  - (f) any other situation agreed between us provided the payment of such commission is permitted

by and is in accordance with the *Applicable Rules*.

- 10.2 Octopus may cease paying commission to you under clause 10.1 above where:
- (a) the *Client* ceases to be invested in or hold the *Octopus Product* or no longer utilises an *Octopus Service*;
  - (b) the *Client* receives advice from you on or after 31 December 2012 that constitutes a Disturbance of that advice, as summarised in Schedule 1; or
  - (c) for the avoidance of doubt, it is no longer permitted under the *Applicable Rules*.
- 10.3 We reserve the right to reclaim (or withhold) commission from you:
- (a) if we have overpaid you or you have received payment in error;
  - (b) if any *Client* exercises any right of cancellation under the *Applicable Rules*;
  - (c) in order to satisfy any outstanding amounts owed by you to us under these *Terms*;
  - (d) to offset any settlement amount due.
- 10.4 In accordance with the *Applicable Rules* (where applicable), you shall disclose to the *Client* the amount of commission, fees and other income or non-monetary benefits you may receive prior to the *Client* making an investment in any *Octopus Product* or *Octopus Service*.
- ## 11. Adviser Charges
- 11.1 Subject to Clause 11.2 and the *Applicable Rules*, if a *Client* purchases an *Octopus RDR Product* following a *Personal Recommendation* by you, *Adviser Charges* may be paid to you in one of the following ways (depending on the nature of the *Octopus Service* and/or *Octopus Product* in question):
- (a) payment made directly by the *Client*; or
  - (b) Octopus facilitating the payment of the *Adviser Charges* to you on behalf of the *Client* from one or more of the following sources
    - (i) the monies received by Octopus from a *Client* for investment in an *Octopus RDR Product*;
    - (ii) a *Client's* cash account;
    - (iii) selling, redeeming or otherwise disposing of all or part of a *Client's* *Octopus RDR Product*;
    - (iv) disposing of or reducing all or part of a *Client's* rights under the *Terms* of an *Octopus RDR Product*; or

- (v) as otherwise permitted under the *Applicable Rules* from time to time.
- 11.2 You warrant and undertake that you shall:
- (a) disclose all information required by the *Applicable Rules* to the *Client* as regards your *Adviser Charges* and our *Octopus RDR Product* charges;
  - (b) gain the informed consent of the *Client* in respect of your *Adviser Charges*;
  - (c) immediately inform us if the *Client* wishes to withdraw your services, ceases to pay *Adviser Charges*, or otherwise withdraws from the *Octopus RDR Product*.
- 11.3 Octopus will deduct initial *Adviser Charges* and pay them to you only on the availability of cleared funds and completed account-opening documentation, including the *Client's* consent to *Adviser Charges*. On request you shall provide us with such information as is reasonably required by us to confirm that the *Client* has consented, and/or continues to consent to *Adviser Charges*.
- 11.4 Where Octopus agrees to establish and maintain a *Client* cash account under 11.1(b)(i) we will cease paying *Adviser Charges* once the balance of this *Client* cash account is nil. We may accrue any *Adviser Charges* and pay them to you if the *Client* cash account is replenished, or when the *Client* liquidates the *Octopus RDR Products*. In any event, no *Adviser Charges* or *Octopus RDR Product* charges may be applied to balances on a *Client* cash account.
- 11.5 Where there is insufficient money in the *Octopus RDR Product* or the *Client* cash account to pay the *Octopus RDR Product* charges and the *Adviser Charges*, the *Octopus Product* charges shall take precedence and shall always be paid first.
- 11.6 In any event, Octopus will cease to pay *Adviser Charges* to you if the value of the *Octopus RDR Product* reaches £0 (nil).
- 11.7 Octopus will pay initial and on-going commissions and *Adviser Charges* that are due and payable to you on a regular basis.
- 11.8 You may ask us to make ad hoc payments, and to provide you with paper statements, but we reserve the right to charge you for each payment and statement that we produce for you.
- 11.9 For the avoidance of doubt, we will not be liable to you in respect of any *Adviser Charges* owed to you by any *Client* (including, without limitation, where a *Client* asks us not to pay an *Adviser Charge* to you) and in all cases without limitation the liability of the *Adviser Charge* shall be for the accountability of the *Client*.
- ## 12. Non-monetary benefits
- 12.1 The parties agree that Octopus will not provide any non-monetary benefits to the *Intermediary*, except those that may be defined as 'reasonable non-monetary benefits' in accordance with the *Applicable Rules* (including without limitation, Chapter 2 of COBS), and always at Octopus' sole and absolute discretion.
- ## 13. Complaints
- 13.1 We shall be responsible for resolving any *Client* complaints which relate to the *Octopus Products* and/or *Octopus Services*, our promotional material and any administration or servicing activity for which we are responsible under or in connection with these *Terms*.
- 13.2 You shall be responsible for resolving any *Client* complaints which relate to any services which you provide to *Clients* (including, without limitation, the provision of advice or related services and the distribution of *Octopus Products* and/or *Octopus Services*) under these *Terms*.
- 13.3 If a *Client* makes a complaint in connection with any *Octopus Products* of the type referred to in clause 13.1, you shall notify us immediately and shall provide the complainant with details of who to contact to escalate their concerns.
- 13.4 Any complaints arising under these *Terms* should be notified to the Complaints Team at 33 Holborn, London, EC1N 2HT.
- ## 14. Amendment
- 14.1 We may change these *Terms* at any time and we will notify you of any material changes that effect you. The latest copy of these *Terms* can be found on our website at <https://octopusinvestments.com/adviser/adviser-centre/document-library/terms-of-business/>
- 14.2 You will be given at least 30 days' notice via e-mail or other durable medium, in respect of any material change to these *Terms* that effect you, unless the specific circumstances require a shorter or longer period (including, without limitation, where required to do so under the *Applicable Rules*).

## 15. Termination

- 15.1 These *Terms* may be terminated by either party on giving 30 days' prior written notice to the other party.
- 15.2 Termination shall not affect any existing obligations incurred by either party prior to such termination.
- 15.3 We reserve the right to terminate these *Terms* with immediate effect by notice in writing to you in the following circumstances:
  - (a) if you cease to be authorised or exempt from authorisation in respect of the business;
  - (b) if you go into liquidation or receivership or are subject to an administration order, enter into any arrangement with creditors, are unable to pay *your* debts, have *your* goods seized in execution or (if you an individual) are bankrupt;
  - (c) if you are subject to any regulatory investigation or have any enforcement action taken against you by any regulatory body or any other event happens which in the opinion of Octopus is likely to bring its reputation into disrepute or be detrimental to its business interests.

## 16. Data Protection

- 16.1 Each party:
  - (a) acknowledges that, for the purposes of *Data Protection Laws*, it is a data controller of personal data relating to these *Terms* and that it independently of, and not jointly with, the other party, determines the purposes for which and the manner in which that personal data is, or is to be, processed;
  - (b) shall comply with the requirements of *Data Protection Laws*;
- 16.2 Notwithstanding paragraph 16.1(a), you will be responsible for providing fair processing information to *Clients* whose personal data we process pursuant to these *Terms*, on behalf of both Octopus and yourself. You will maintain a record of *Clients* to whom you have provided fair processing information on behalf of Octopus under this paragraph 16.2 and will make that record available to Octopus on our reasonable request. Octopus will provide you with a copy of the relevant fair processing information to be provided to *Clients* under this paragraph 16.2.
- 16.3 Each party shall notify the other party as soon as reasonably practicable after becoming aware of

any *Data Breach* and provide the other party with a reasonable description of that *Data Breach* promptly upon that information becoming available. Each party shall, at the request, reasonable cost and expense of the other party, provide reasonable assistance to the other party to mitigate any adverse effects of any *Data Breach* on that party's business and affected individuals. Neither party shall release or publish any notice, press release or report concerning the *Data Breach* without first consulting the other party, save that it may disclose a *Data Breach* to the extent required by *Applicable Rules*.

- 16.4 If an individual makes a written request to either party to exercise their rights of access, rectification or erasure, to restrict or object to processing of personal data or to data portability which relates directly or indirectly to the other party's processing of personal data, the receiving party shall promptly forward that request to the other party and at the request, cost and expense of the other party, provide reasonable assistance to the other party to respond that request in accordance with applicable deadlines under *Data Protection Laws*.
- 16.5 Each party shall, to the extent permitted by *Applicable Rules*, if it receives any complaint, notice or communication from a supervisory authority which relates directly or indirectly to other party's processing of personal data, or an actual or potential failure by the other party to comply with *Data Protection Laws*, promptly forward the complaint, notice or communication to the other party and, at the other party's request, reasonable cost and expense, provide them with reasonable co-operation and assistance in relation to the same.

## 17. General

- 17.1 If any part of these *Terms* is found to be illegal, invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of these *Terms* which shall remain in full force and effect.
- 17.2 You may not delegate or transfer any of your rights or obligations under these *Terms* without our prior written consent.
- 17.3 Octopus may assign these *Terms* giving 30 days' notice subject to the prior written consent of the other party.
- 17.4 A party who is not a party to these *Terms* has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any provision of these *Terms*.

17.5 These *Terms* and any disputes arising out of or in connection with them are governed by and construed in accordance with English Law, and the parties submit to the exclusive jurisdiction of the English Courts.

17.6 The failure of Octopus to exercise or delay in exercising a right or remedy provided by these *Terms* or by law does not constitute a waiver of the right or remedy of other rights or remedies.

## 18. Defined Terms

18.1 Any reference in these *Terms* to any statute, statutory provision, or rule (including, without limitation, those references set out in 18.2 below) includes reference to any statutory modification, or amendment of it or any re-enactment, or replacement, or replacement that supersedes it, and to any regulation or subordinate legislation made under it (or under such a modification or re-enactment).

18.2 In these *Terms*:

“*Act*” means the Financial Services and Markets Act 2000;

“*Adviser Charges*” means the term as used by the FCA from time to time;

“*AML Rules*” means the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, the Proceeds of Crime Act 2002, the Terrorism Act 2000 and any relevant anti-money laundering legislation, regulations or guidance note, as amended from time to time.

“*Applicable Rules*” means all applicable laws, rules, regulations, guidance or codes of conduct which are relevant to the performance by you of your obligations under these *Terms*, including, without limitation, the *Act*, the *FCA Handbook*, *FCA Rules*, *Data Protection Laws*, the *Bribery Act 2010* and the *AML Rules*

“*Appointed Representative*” means *Appointed Representative* as defined in section 39 of the *Act*;

“*Bribery Act*” means the *Bribery Act 2010* and any other applicable anti-bribery laws, regulations, rules or guidelines;

“*Business*” means any specified activity for the purposes of section 22 of the *Act* including, without limitation, advising and/or arranging transactions in investments. For the avoidance of doubt, for the purposes of these *Terms*, “*Business*” also refers to the introduction of *Clients* by you to Octopus for

the provision of portfolio management services;

“*COBS*” means the *Conduct of Business Sourcebook of the FCA Handbook*;

“*Client*” means a client of the *Intermediary*, who also becomes a client of Octopus by investing in an *Octopus Product* or using an *Octopus Service*;

“*Data Protection Laws*” means: (a) from the date of these *Terms* up to and including 24 May 2018: (i) Directive 95/46/EC and any applicable national law or regulation that implements that Directive, (ii) the UK Data Protection Act 1998, and (iii) any applicable law in any relevant jurisdiction that applies to the processing of data relating to living persons; and (b) from and including 25 May 2018: (i) Regulation (EU) 2016/679, and (ii) any other applicable law in any relevant jurisdiction that applies to the processing of data relating to living persons, in each case as amended or replaced from time to time;

“*Data Breach*” means any actual or suspected breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;

“*Disturbance Event*” means as further set out in Schedule 1;

“*Effective Date*” means the date we first accept an application for and *Octopus Product* or *Octopus Service* which has been placed with us by you;

“*Financial Promotions Rules*” means any one or more of, the rules and requirements set out in the Financial Services and Markets 2000 (Financial Promotions) Order 2005, the Financial Services and Markets Act 2000 (Promotion of Collective Investment Schemes (Exemptions) Order 2001 and Chapter 4 of *COBS* as are applicable to you in the context of any actual or intended marketing communication or financial promotion;

“*FCA*” means the Financial Conduct Authority, which expression shall include any replacement or substitute and any regulatory body or person succeeding, in whole or in part, to the functions thereof; or any other relevant supervisory body;

“*FCA Handbook*” means the FCA’s handbook of rules, regulations and guidance, as amended and replaced from time to time;

“*FCA Rules*” means the rules issued by the FCA, including (without limitation) the *FCA Handbook*;

“*Intermediary*”; “*you*”; or “*your*” means an individual,

partnership or company carrying out *business* which involves introducing *Octopus Products* to its *Clients*. If you are a principal of a network of *Appointed Representatives*, or an *Appointed Representative*, these Terms shall apply to you and, (where applicable) each of your *Appointed Representatives*, and you are responsible for ensuring that all of your employees, agents and (where applicable) your *Appointed Representatives* and your *Appointed Representatives'* employees and agents are aware of and comply with these Terms;

*"Losses"* means any losses, claims, demands, damages, fines, penalties, actions, costs, expenses or liabilities of any nature (including legal fees reasonably incurred);

*"Octopus Investments Limited"* means the entity that is authorised and regulated by the FCA with firm reference number 194779 and is registered in England and Wales under number 3942880 with its registered office at 33 Holborn, London EC1N 2HT;

*"Octopus Product"* means an investment product (excluding Venture Capital Trusts) which may from time to time be offered by Octopus through intermediaries including, without limitation, independent financial advisers. The list of *Octopus Products* is set out in Schedule 2. Please ask Octopus for further details about the specific Octopus Product covered by these Terms;

*"Octopus Co-Lend Limited"* means the entity that is authorised and regulated by the FCA with firm reference number 722801 and is registered in England and Wales under number 08913299 with its registered office at 33 Holborn, London EC1N 2HT;

*"Octopus RDR Product"* means any *Octopus Product* which is subject to the FCA's rules on *Adviser Charges* and which may or may not be a *Retail Investment Product*, or any other *Octopus Product* which we may, in our absolute discretion, classify as an *Octopus RDR product* from time to time;

*"Octopus Services"* means a service which may from time to time be offered by Octopus through intermediaries including, without limitation, independent financial advisers. The list of *Octopus Services* is set out in Schedule 2. Please ask Octopus for further details about the specific *Octopus Service* covered by these *Terms*;

*"Permissions"* means any *permissions*, licences, consents, approvals, authorisations or waivers required under the relevant *Applicable Rules* and/or any relevant regulatory body (including, without limitation, the FCA, the Office of Fair Trading and the Office of the Information Commissioner (or anybody which succeeds or replaces in whole or in part any of the foregoing));

*"Personal Recommendations"* means as such term is used by the FCA from time to time;

*"Retail Client"* means the meaning specified in the *FCA Handbook*;

*"Retail Investment Product"* means as such term is used by the FCA from time to time; and

*"Terms"* means these *Terms*.

### **Schedule 1: Disturbance Events**

A *Disturbance Event* may include (without limitation) any of the following:

1. a recommendation to switch an *Octopus Product* risk profile;
2. a recommendation to switch to another *Octopus Product* or *Octopus Service*;
3. a transfer of investments from one party to another party; or any other such event which causes the *Octopus Product* or *Octopus Service* to become subject to the FCA's Rules on *Adviser Charging* (including any events notified by us to you from time to time).

## Schedule 2: Octopus Products and Octopus Services

- Octopus Inheritance Tax Services (including AIM)
- Octopus Portfolio Manager
- Octopus Titan VCT ISA
- Octopus Choice
- Octopus Cash
- Octopus Enterprise Investment Schemes

For a list of Products and Services that are currently open for new investment, please go to:

<https://octopusinvestments.com/adviser/our-products/>

 0800 316 2067

 [info@octopusinvestments.com](mailto:info@octopusinvestments.com)